

Region 4
U.S. Environmental Protection Agency
Atlanta, Georgia



STANDARD OPERATING PROCEDURES

Title: Regional Freedom of Information Act Procedures

Effective Date: March 31, 2015

Author

LouAnn Gross, Chief
Information Access Section

Concur

Name: Vickie H. Tellis
Title: Deputy Assistant Regional Administrator

Approval

Name: Kenneth R. Lapierre
Title: Assistant Regional Administrator

PROCEDURES FOR RESPONDING TO FREEDOM OF INFORMATION ACT (FOIA) REQUESTS IN REGION 4

1. PURPOSE

These procedures serve as a framework for responding to Freedom of Information Act (FOIA) requests and provide basic instructions for processing FOIA requests submitted to the U.S. Environmental Protection Agency (EPA) Region 4. These procedures support open government through transparency, proactive disclosure, and when possible, discretionary releases of information.

2. SCOPE AND APPLICABILITY

These procedures address statutory, regulatory, federal guidance and Agency requirements for processing FOIA requests in Region 4. The scope of these procedures covers work performed by Region 4 employees, grantees, contractors, and interns in support of FOIA administration activities. This includes field offices and the laboratory at the Science and Ecosystems Support Division in Athens, Georgia. These procedures supersede all previous Region 4 FOIA protocols, policies or guidances, to the extent that previous versions are inconsistent with the process set forth herein.

3. AUDIENCE

The audience for these procedures includes FOIA professional employees, as well as contractors, grantees, interns, and others who support FOIA administration activities within EPA Region 4.

4. BACKGROUND

The FOIA, 5 U.S.C. § 552, was passed into law in 1966. The law gives any person the right to obtain access to federal agency records except when such records or portions of such records are protected from public disclosure by a FOIA exemption. There are nine FOIA exemptions:

- 1) Classified national defense and foreign relations information.
- 2) Internal agency rules and practices.
- 3) Information that is prohibited from disclosure by another federal law.
- 4) Trade secrets and other confidential business information.
- 5) Inter-agency or intra-agency communications that are protected by legal privileges.
- 6) Information involving matters of personal privacy (protected under the Privacy Act or containing sensitive personally identifiable information).
- 7) Information compiled for law enforcement purposes, to the extent that the production of those records:
 - a) Could reasonably be expected to interfere with enforcement proceedings.
 - b) Would deprive a person of a right to a fair trial or an impartial adjudication.
 - c) Could reasonably be expected to constitute an unwarranted invasion of personal privacy.
 - d) Could reasonably be expected to disclose the identity of a confidential source.

- e) Would disclose techniques and procedures for law enforcement, investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions.
- f) Could reasonably be expected to endanger the life or physical safety of any individual.
- 8) Information relating to the supervision of financial institutions.
- 9) Geological information on wells.

The FOIA applies only to the Federal Executive Branch. It does not apply to records held by Congress, the courts, or by state, local, or tribal government agencies. It does include all agency records in any format, including electronic format. This includes text messages, instant messages and other transient messaging. The FOIA has undergone several amendments since its passage, including the e-FOIA amendments of 1996 and the Open Government Act of 2007. The e-FOIA amendments clarified how electronic records should be handled under the FOIA and extended the statutory time to respond from 10 working days to 20 working days. The Open Government Act of 2007 made changes to promote a more open and accountable government and established an agency Chief FOIA Officer and Public Liaison Officers to assist in reducing delays, increasing transparency and resolving disputes.

The Open Government Act promotes the use of technology to achieve more efficient disclosure of information to the public. To improve its FOIA management and processes, the Agency deployed FOIAOnline, a shared service, as its new FOIA management system in October 2012. FOIAOnline automates core processing and administrative activities. All FOIA requests received at EPA will be managed throughout their lifecycle in FOIAOnline. All records provided by EPA in response to a FOIA request will be entered into FOIAOnline for public viewing and searching unless the volume of paper records is very large and conversion to e-format is not practical or the response is subject to special handling requirements or policies (e.g., contains sensitive personally identifiable information). These exceptions will be reviewed on a case by case basis by the Region 4 Information Access Chief. A copy of the decision will be maintained in the system. If records provided in response to a request are not entered into FOIAOnline because of these conditions, a placeholder document must be uploaded with contact information for obtaining a copy of the response. The Government Information Specialist that has responsibility for responding to the request must maintain the records and make them readily available for responding to future requests.

This document does not provide “how-to” instructions for using FOIAOnline, but does reference features of the system that help accomplish certain FOIA tasks outlined in this procedure. The Agency sponsors FOIAOnline trainings for managers, supervisors and staff and has developed complementary user guides that are available at <https://FOIAOnline.regulations.gov/foia/action/public/home>.

These procedures are intended to ensure that the Agency responds to FOIA requests in accordance with statutory requirements, EPA’s implementing regulations, and open government and transparency policies. These procedures will be supplemented by role-based and general awareness trainings for the audience identified under Section 3 above.

5. AUTHORITY

[Freedom of Information Act](#), 5 U.S.C. § 552.

[EPA's FOIA Regulations](#), Title 40, C.F.R. Part 2, Subpart A.

[CIO Freedom of Information Act Policy](#), dated September 30, 2014

[CIO Procedures for Responding to Freedom of Information Act Requests](#), dated September 30, 2013

EPA Region 4 Delegation 1-30

6. CENTRALIZED PROCESSING AT REGION 4

The EPA Region 4 FOIA Program resides in the Office of Policy Management (OPM), Information Access, Integration and Systems Branch (IAISB), Information Access Section (IAS). The Information Access Section oversees FOIA processing, Records Management, Privacy, and the Regional Library. The EPA Region 4 FOIA Program is centralized and is responsible for coordinating responses to all requests submitted to Region 4. In the centralized, customer service approach, requests are assigned to a Government Information Specialist who is responsible for processing the request within the statutory timeframe of 20 working days. EPA Region 4 receives and processes an average of 850 requests each year, with a goal of providing excellence in customer service to our external and internal customers. Additional information regarding the Information Access Section is available at the EPA R4 FOIA Intranet site, <http://r4intranet.epa.gov/FOIA/>.

The intent of this basic instruction is to provide Region 4 personnel with information to assist them with understanding their statutory obligation to comply with the FOIA and provide the procedural steps required to process a FOIA request. All EPA employees have a duty to ensure they act in accordance with the accessibility, responsibility and accountability requirements outlined within the FOIA and [Federal Records Act](#). A pledge to adhere to good Records Management practices is the first step to meeting this obligation. To learn more about EPA Records Management, visit www.epa.gov/records and <http://r4intranet.epa.gov/opm/records/>.

Accessibility – All employees have an obligation to ensure records and documents they create are accessible and maintained in accordance with [EPA Records Schedules](#) and must provide access to records when identified as responsive to a FOIA request.

Accountability – All employees are responsible for the records they create and should adhere to the standards of conduct to prevent unwarranted disclosure or access by unauthorized persons.

Responsibility – All employees are responsible for ensuring they follow the procedures developed by the Agency to process requests. If an agency employee receives a request for records from the public, they are responsible for forwarding it to the Information Access Section. All employees are also responsible for ensuring they act within the spirit of the FOIA by assisting the Government Information Specialists to identify information meeting the criteria for discretionary release.

7. ROLES and RESPONSIBILITIES

The following are the roles and responsibilities required to process FOIA requests within Region 4. Additional roles and definitions are found in the CIO Freedom of Information Act Policy, dated September 30, 2014 and CIO Procedures for Responding to Freedom of Information Act Requests, dated September 30, 2014.

Requester – Anyone may submit a FOIA request with the exception of fugitives from justice, if requested records relate to the requester's fugitive status, and foreign governments requesting information from intelligence agencies. The requester is responsible for ensuring the request is in writing, contains a reasonable description of the records being sought, provides their mailing address and states their willingness to pay fees in the amount of at least \$25.00. Upon receipt of the request at Region 4, requesters are placed in the appropriate fee categories of either commercial, scientific, media, educational or other. Examples of requesters are law firms, environmental advocacy groups, environmental consulting firms, state agencies and private citizens.

FOIA Coordinator – The FOIA Coordinator is a member of the FOIA Administrative Team responsible for in-processing and closure of the requests. The FOIA Coordinator who in-processes the request is responsible for forwarding fee waiver and expedited processing requests to EPA Headquarters for determination by the National FOIA Office. The FOIA Coordinator also processes administrative closure of duplicate requests, transfers to other EPA offices and referrals to other government agencies.

Government Information Specialist – The Government Information Specialist manages the lifecycle of the request by coordinating the search, collection and review of the responsive records. The Government Information Specialist is the liaison between the requester and the staff regarding any necessary clarification and negotiation of the scope of the request, extensions, fees and other matters pertaining directly to the request. The Government Information Specialist is responsible for conducting the initial review of responsive records and coordinating with the staff to ensure the records are appropriately designated as non-exempt, partially exempt or exempt. This function is performed in consultation with the program office. The Government Information Specialist is also responsible for ensuring the records are provided to the requester through the development of a response letter, index and most efficient media for release (paper, compact disk or electronic media).

Information Access Chief – The Information Access Chief manages and supervises the FOIA staff to ensure they have the knowledge, skills and ability to perform their duties. The Information Access Chief provides guidance and information to management and senior leadership about the FOIA program and directs coordination of high profile and sensitive requests. The Information Access Chief reviews all responses for quality assurance and is the signature authority for transfers, referrals, pre-payments and administrative closures. The Information Access Chief serves in the capacity as FOIA Public Liaison in the Region and is responsible for assisting in reducing delays, increasing transparency and assisting in the resolution of disputes.

Potential Record Holder (PRH) and Record Holders (RH) – The PRH and RH is the person(s) working within the different media areas identified as the potential custodian of records identified as responsive to a FOIA request. Any employee at EPA Region 4, including all professional disciplines and positions, may be considered a PRH or RH. The PRH is responsible for conducting a thorough, adequate search for the records and providing full support when approached for records or assistance in responding to the FOIA requests. If records are found, this person becomes the RH and is responsible for collecting the records, maintaining the records in his/her possession in accordance with the prescribed records disposition schedule, providing the records to the Government Information Specialist in hardcopy or electronic format and for assisting with the designation of documents as non-exempt, partially exempt or exempt.

Division and Program Administrative Offices – Offices within the media and administrative areas where the record holders reside, which have the responsibility and oversight to ensure records are

maintained in accordance with EPA Record Schedules. Administrative offices include the Office of Regional Administrator, Office of External Affairs and Office of Assistant Regional Administrator.

Office of Regional Counsel (ORC) - The Office of Regional Counsel (ORC) provides legal advice to regional employees and management on FOIA matters, final CBI determinations and FOIA litigation.

Office of Regional Counsel (ORC) Freedom of Information Paralegal – The ORC FOIA Paralegal is responsible for ensuring the attorney assigned to a site or matter is identified and notified by conducting a search in the Integrated Compliance and Information System (ICIS) database or through coordination with ORC management. The ORC FOIA Paralegal also reviews partial and full denials for quality assurance before forwarding to the attorney for concurrence. The ORC FOIA Paralegal is also responsible for assisting the Information Access Section on processing and reviewing responses involving complex, sensitive and/or voluminous records.

Office of Regional Counsel (ORC) FOIA Attorney - The ORC FOIA Attorney serves as the primary legal contact on FOIA issues and in an advisory capacity to the Information Access Section, Regional Counsel, and management regarding FOIA matters.

Attorney and Attorney (as counsel) – ORC attorney(s) may be a PRH, RH and/or counsel depending upon whether in possession of responsive records and/or serve as counsel for the site or matter. In coordination with the Government Information Specialist, ORC FOIA Paralegal and Program Office, in their role as legal counsels, ORC attorneys may be asked to advise the Program Offices and Government Information Specialists on whether specific records are responsive to a request, assists in parsing FOIA requests and assists in identifying additional PRHs or RHs. Pursuant to EPA Region 4 Delegation 1-30, an ORC attorney must concur on any proposed denial or partial denials of records and ensure exemptions are properly applied. In addition, ORC attorneys may conduct a heightened legal review when the FOIA request involves a matter that is in litigation or the potential for litigation is high; where there is an active enforcement matter or an enforcement case under investigation; it is a high profile or otherwise sensitive matter that has significant Congressional or public interest; or there is a likelihood where any FOIA denial may be appealed. A heightened legal review may include a review by ORC of all documents responsive to the request, including documents that are not subject to withholding under an applicable FOIA exemption, and a greater role for the ORC Attorney in working with Program Offices and the Region 4 Information Access Section in responding to requests. A determination that a heightened legal review is necessary is made by the applicable ORC Office Chief in consultation with the ORC Attorney, Information Access Chief, Government Information Specialist, FOIA Paralegal and the applicable Division or Program Office.

Information Access, Integration and Systems Branch Chief – The IAISB Chief is responsible for the management of the Information Access Section. The IAISB Branch Chief reviews each FOIA response for concurrence before submission to the Assistant Regional Administrator (ARA) for signature. Upon approval of a pending reorganization in 2015, this responsibility will transfer to Information Systems and Management Branch.

Assistant Regional Administrator (ARA) - The ARA is the signature authority for all full releases, partial releases, full denials and no record responses.

EPA Headquarters (HQ), National FOIA Office – The National FOIA Office is responsible for making determinations regarding fee waivers and/or expedited processing requests. The National FOIA Office provides FOIA guidance and policy to the regions from the national level. When appropriate, the

National FOIA Office coordinates FOIA responses requiring input from all or multiple national offices or regions.

8. PROCESSING

The centralized method for processing FOIA requests is a three stage process:

Stage 1 –Initial Processing

Stage 2 – Search, Collection and Review

Stage 3– Staffing and Closure

The FOIA process officially begins when a request is received by the agency. Requesters must request a fee waiver and/or expedited processing at the time they submit their request. The Agency's FOIA regulations direct the public to send FOIA requests, in writing, to EPA Headquarters, Regional FOIA Offices or through a form on the Agency's FOIA website (which provides a link to FOIAOnline). Requests received in any other Agency office should be immediately forwarded to the appropriate FOIA Office so that the requester does not incur undue processing delays. See 40 C.F.R. 2.102(a). Within Region 4, requests should be forwarded to the Office of Policy and Management, Information Access Integration and Systems Branch, Information Access Section and directed to the Information Access Chief.

STAGE 1 – INITIAL PROCESSING

Step 1 – Receive and Review Incoming Requests. The public may submit requests to the Agency *via* FOIAOnline, postal mail, e-mail or hand delivery. The FOIA Coordinator receiving the request will verify that the request: 1) is in writing; 2) provides a mailing address; 3) asks for Agency records; and 4) reasonably describes the records sought. A description is sufficient if it enables a professional Agency employee familiar with the subject area to locate the record with a reasonable amount of effort. The FOIA does not require EPA to create records in response to a request, re-create records that were properly dispositioned or conduct research. See also, 40 C.F.R. § 2.102(c). If the requester provided an email address, FOIAOnline will automatically send a receipt to the requester that includes the tracking number and submission date for all requests processed in the system. Requests received after 5:00 pm EST, on weekends, or holidays are not considered received until the next business day.

Step 2 – Determine if the Request is in the Correct FOIA Office. The FOIA Coordinator will determine where responsive records are most likely to be located in the Agency. When a request is received in an Agency FOIA Office and all responsive records are determined to be located in another region or Headquarters, the FOIA Coordinator will notify the requester in writing and will assign the request in FOIAOnline to the appropriate FOIA Office at Headquarters or another EPA Regional Office. See also, 40 C.F.R. § 2.103(a).

The FOIA allows agencies up to 10 working days to route a misdirected request before the 20 working day period to respond begins. For the purposes of this 10 day allowance, a request is "misdirected" if it is sent to a FOIA Office that is not located with the program or regional office that will have the responsive records. Requests sent by the public to an office other than a FOIA Office are also misdirected and must be immediately sent to the local FOIA Office.

After steps 1 and 2 are completed, the request is considered “perfected.” Requests should be “perfected” as soon as possible after receipt. The FOIA Coordinator will enter the “perfected” status in FOIAOnline to initiate the 20 working day period. (FOIAOnline will automatically initiate the 20 working day period on the eleventh working day after the request is received, even if the request has not been perfected.)

Step 3 – Acknowledge Receipt and Tracking Number. FOIAOnline will automatically send a receipt to the requester that includes the tracking number and submission date for all requests processed in the system. If a request is not received through FOIAOnline, the FOIA Coordinator will enter the request in the system within one working day of receipt and issue an acknowledgement through FOIAOnline if an email address is provided. The FOIA Coordinator will use postal mail if an e-mail address is not provided. The acknowledgement letter will provide the tracking number and the submission date. An additional correspondence will be sent to the requester by the FOIA Coordinator in FOIAOnline, providing the name and contact information of the Government Information Specialist responsible for processing the request.

Step 4 – Determine the Fee Category. The FOIA Coordinator will initially determine how requesters will be charged processing fees based on their fee category. The fee categories under the FOIA are: (1) Commercial Use, (2) Educational Institution or Non-Commercial Scientific Institution, (3) Representative of the News Media and (4) Other. See also, 40 C.F.R. § 2.107. (See Step 9 below for information on calculating fees.) If the requester’s status needs to be corrected or changed at any time during the process, the Government Information Specialist will make the correction and create a comment explaining why it was changed in FOIAOnline.

Step 5 – Process Fee-Waiver (FW) and Expedited Processing (EP) Requests. All requests for fee waivers and expedited processing must be submitted with the initial FOIA request (see 40 C.F.R. § 2.107(I)(5)). Decisions on FW and EP requests will be made by the Agency FOIA Officer based on the factors outlined in 40 C.F.R. § 2.107(I)(5) and 2.104(e), respectively.

FW and EP requests submitted to the Information Access Section will be tasked by the FOIA Coordinator to the Headquarters FOIA Office through FOIAOnline for processing. (Please note the Region retains the responsibility for responding to the request for records.) The FOIA permits the Agency to toll or “stop the clock” for fee related reasons. The FOIA Coordinator will stop the clock when submitting a fee waiver task to the Headquarters FOIA Office in FOIAOnline and is responsible for making sure the clock is restarted once the FW determination has been made.

Whether a FW request is likely billable or unbillable will be communicated to the Headquarters FOIA Office by the organization to which the request is assigned within 48 hours of receipt of the request. The Agency FOIA Officer will determine if fees will likely be incurred by the requester before deciding on the request. (A request for a fee waiver is moot when no fees are associated with processing the request.)

The Agency FOIA Officer will make the initial decision whether to grant or deny a FW or EP request. The Government Information Specialist assigned the request will be notified via FOIAOnline that a determination has been issued. (Note: Notifications will not be sent to FOIAOnline groups.)

The Agency must decide whether to grant an EP request within 10 calendar days of receipt. If the request is granted, it must be given priority by Information Access Section and be the next request in line

for processing. See C.F.R. § 2.104(3)(4). However, the request itself is not required to be processed within the 10 calendar days.

Step 6 – Assign the Request to the Government Information Specialist. In most cases, the FOIA Coordinator will assign the request in FOIAOnline to a Government Information Specialist who will be responsible for processing the request.

STAGE 2 – SEARCH, COLLECTION AND REVIEW

Step 7 – Determine Search Parameters. The Government Information Specialist will determine the cut-off date for records subject to the request. Under the Agency’s regulations (see 40 C.F.R. § 2.103 (a)) for determining what records are within the scope of the request, the Government Information Specialist will usually include only those records in its possession as of the date the request was received by the Information Access Section. If a different date is used, the Government Information Specialist will inform the requester of that date.

The request will also be reviewed to determine the subject matter of the records the requester is seeking. If it is deemed necessary for the Government Information Specialist processing the FOIA to obtain clarification or information from the requester, the time necessary to reformulate the request will be excluded from the statutory 20 working day period (or any authorized extension of time) that EPA has to respond to the request. The FOIA permits the Agency to toll or “stop the clock” **one** time during the first 20 days after receipt, to seek information and clarification from the requester. The clock may not be stopped for clarification without the concurrence of the Information Access Chief. The Government Information Specialist who stops the clock is responsible for ensuring the clock is restarted at the appropriate time. Although, the requester may be contacted as many times as is needed to clarify the scope of the request, the clock may only be stopped once. Once the clock has been stopped, it should not be restarted until the information or clarification is provided. All communications must be documented for the official record and entered into FOIAOnline, and the deadlines adjusted in the system as appropriate.

NOTE: For large, complex FOIA requests, the Information Access Section will convene meetings with all interested Agency parties to clarify responsibilities, methods to be used for collection of records, and similar issues. These meetings should include programmatic experts, Records Liaison Officers, information technology specialists, and legal counsel, as appropriate.

Step 8 – Determine if Additional Responsive Records are in Other Agency Organizations. When additional responsive records are determined to be located in other Agency organizations, or the request is incorrectly assigned, the appropriate FOIA Office should be notified by the FOIA Coordinator or the organizational subject matter expert within two working days of receiving the assignment. Division Program Administrative Offices should return misdirected requests to the local FOIA Coordinator for re-assignment within two working days.

NOTE: The appropriate FOIA Office will create a task in FOIAOnline to request additional records from another EPA organization.

Step 9 – Estimate Processing Fees. EPA’s FOIA regulations require an assurance of payment from the requester if fees are expected to exceed \$25.00 or an amount specified by the requester. Unless a waiver

of fees has been granted by the Agency FOIA Officer, the Information Access Section will estimate the processing fee which will be charged as specified in 40 C.F.R. § 2.107. Search fees may apply even when no responsive records are identified or no responsive records are disclosed to the requester. Fees are determined by the type of staff performing the work, the requester category, and the category of work performed. Fees are calculated as follows:

Type of Staff	Charge Per Quarter Hour
Clerical Staff	\$4.00 per ¼ hr
Professional Staff	\$7.00 per ¼ hr
Managerial Staff	\$10.25 per ¼ hr

Type of Requester	Fee Category		
	Search	Review	Duplication
Commercial	Yes *	Yes	Yes
Educational	No	No	Yes (100 pages free)*
Non-commercial	No	No	Yes (100 pages free)*
Scientific	No	No	Yes (100 pages free)*
News Media	No	No	Yes (100 pages free)*
All Others	(First 2 hours free)*	No	Yes (100 pages free)

*Fees shaded in grey above cannot be charged if the Agency fails to comply with time limits for response

Step 10 - Determine Response Time. The FOIA requires agencies to provide a substantive response within 20 working days. In such instances when the Government Information Specialist determines the response cannot be completed within 20 working-days, the Agency may extend the due date if “unusual circumstances,” as defined by the FOIA, apply. An “unusual circumstance” exists when there is: (1) a need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request; (2) a need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; and (3) a need for consultation, which will be conducted with all practicable speed, with another agency or among two or more components of the Agency having a substantial interest in the determination of the request.

If unusual circumstances exist and there is a need to extend the due date for 10 working days or less, the Government Information Specialist must, within the 20 working day time limit, notify the requester in writing that unusual circumstances exist and provide the new due date. When the unusual circumstances result in a need to extend the due date for more than 10 working days, the Government Information Specialist must provide the requester, within the 20 working days, an opportunity to either (a) modify the request so that it may be processed within the 10 working day extension or (b) arrange an alternative time period for processing the original or modified request, and must provide the contact information for the Information Access Chief who serves as Region 4 FOIA Public Liaison.

If unusual circumstances do not exist, or if the due date has already been extended and additional time is needed to complete the response, the Government Information Specialist should seek a reasonable

extension from the requester. To aid the requester, the Government Information Specialist will provide the requester the contact information for the Region 4 FOIA Public Liaison and/or the EPA FOIA Public Liaison, who will assist in the resolution of any disputes between the requester and EPA. If the requester does not agree to an extension, the Government Information Specialist will fulfill the request as soon as possible. The requester may file an administrative appeal or may pursue litigation. In any event, the Government Information Specialist should communicate any extensions and expected completion dates with the requester. All communications must be documented for the official record and entered into FOIAOnline. The Government Information Specialist will prepare a letter to the requester and submit to the FOIA Chief for signature. The FOIA Coordinator will enter the new requested due date and upload the extension letter signed by the FOIA Chief into FOIAOnline.

Step 11 – Collect and Review the Records. The Government Information Specialist is responsible for identifying, collecting and reviewing records within the scope of the request as discussed in Step 7, and as outlined in any organization-specific procedures. The Government Information Specialist is responsible for consultation and referral with other federal agencies. Division and Program Administrative Offices are responsible for coordinating responsive activities with the Information Access Section when more than one office has responsive records. The Government Information Specialist must also ensure that protected information has been redacted from records before they are released.

The Government Information Specialist will 1) ensure that redacted information cannot be read through photocopied records; 2) remove “hidden” metadata as appropriate (e.g. Microsoft Word document properties); and 3) annotate records with the applicable FOIA exemption(s) at the location of the redacted information. A copy of both the original and redacted record will be stored in FOIAOnline, unless subject to special handling requirements or policies. Exceptions to this storage requirement are approved on a case by case basis by the Information Access Chief. If records provided in response to a request are not entered into FOIAOnline because of special handling requirements or policies or because the volume of files make it impractical to upload the complete response, a placeholder document must be uploaded with contact information for how to obtain a copy of the response that the responding office will maintain and make readily available.

NOTE: Only records that have been 1) marked published and 2) approved for release are available to the public in FOIAOnline.

Step 12 – Determine Which Records (or Portions) May Be Released. After thorough review, the Government Information Specialist will prepare for release all responsive, non-exempt records or portions of records. All records released in response to a FOIA request must be reviewed by at least two knowledgeable individuals, including one manager or supervisor to ensure openness, transparency, consistency, and the appropriate application of FOIA exemptions. The Government Information Specialist will consult with the FOIA Chief and the Office of Regional Counsel, for questions regarding withholding of records under a FOIA exemption. The agency should only withhold records, or portions of records, when they reasonably foresee that disclosure would harm an interest protected by one of the exemptions or when disclosure is prohibited by law.

Responsive records that have been properly reviewed and redacted (if necessary) will be subject to one of the following outcomes:

- a) Release in Full. The record, in its entirety, may be released to the requester.
- b) Partial Grant/Partial Denial. If covered by a FOIA exemption, portions of the record will be

withheld from the requester. The portions of the record that are not redacted are released to the requester.

c) Withhold in Full. The record, in its entirety, will be withheld from the requester if covered by either a FOIA exemption or exclusion.

d) No Record. If, after a reasonable search likely to uncover all responsive documents, no records are located that are responsive to the request, the requester will be informed in writing. A no records certification form must be completed for no record responses and entered in FOIAOnline. Please note: This form is not sent to the requester.

e) Confidential Business Information (CBI). For records or parts of records that have been claimed as CBI or would be claimed if the business knew EPA proposed to disclose the information, the procedures set out in 40 C.F.R. § 2.204 must be followed.

f) Glomar Response. In some instances, the Agency may expressly refuse to confirm or deny the existence of records responsive to a FOIA request; this is called a Glomar response. The response letter will inform the requester that the request is denied because "either the records do not exist or they are exempt from mandatory disclosure under the applicable provision of FOIA." (Approval must be obtained from OGC or ORC prior to issuing a Glomar response.)

Responses involving discretionary releases are negotiated between the Information Access Section, the Division and Program Administrative Office, and the Office of Regional Counsel. The final decision of whether to release or withhold resides with the Division and Program Administrative Office.

Step 13 – Prepare Response Letter. The Government Information Specialist will prepare the response letter and obtain necessary concurrences. All response letters are required to provide (1) the FOIA tracking number and (2) appeal language as appropriate. FOIA requesters have the right to appeal initial FOIA decisions made by EPA if no records were located during the search; the response time has exceeded the statutory authority or documented extensions; the request for expedited processing was denied; the request for a fee waiver was denied; the requester believes some records were improperly withheld; the requester believes the search was inadequate; or the requester believes the fee category in which they were placed is incorrect.

In addition, response letters that withhold Agency records, in total or in part, are required to identify the records withheld individually or by category of similar documents, if voluminous; applicable FOIA exemption(s) under which the record is being withheld and a brief statement explaining the reason for the denial; and authorizing official by name and title (see Step 15 below for list of Authorized Officials).

Step 14 – Finalize Processing Fees. The Government Information Specialist will inform the requester in the response letter if fees for processing the request are not billable (i.e., equal to or less than or \$14.00). If the processing fees are billable (i.e., greater than \$14.00), FOIAOnline will generate the invoice.

The Administrative Cost section in FOIAOnline must be completed to document billable and unbillable costs in FOIAOnline. All personnel working on a request will provide the number of hours spent searching and reviewing to the Government Information Specialist who will enter the information in

FOIAOnline. The Agency is required to document actual fees charged to the public (billable) and the administrative costs (unbillable) incurred by the Agency in processing FOIA requests.

STAGE 3 – STAFFING AND CLOSURE

Step 15 – Obtain Approval from an Authorized Official. The Deputy Administrator, Assistant Administrators, Regional Administrators, General Counsel, Inspector General, Associate Administrators, and heads of headquarters staff offices are delegated the authority to issue initial determinations. See EPA Freedom of Information Delegation of Authority, Section 1-30. In Region 4, the authority to issue initial determinations has been delegated to the Division Director of the Office of Policy and Management who also serves as the Assistant Regional Administrator.

NOTE: Initial determinations may be redelegated only to persons occupying positions not lower than division director or equivalent.

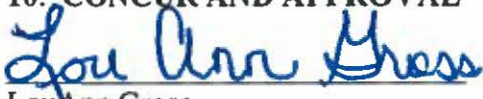
Step 16 – Respond to Request. The Government Information Specialist will provide the response letter, responsive records and invoice (when applicable) to the requester and provide a copy of the final response packet to the FOIA Coordinator. If an e-mail address is provided, the requester will be notified via email that the responsive records are available in FOIAOnline. Otherwise, the response package will be provided via postal mail. The response letter must include a description of the information withheld either by category and volume, or by a list. The response letter must also include the standard administrative appeal language in all cases.

Step 17 – Finalize Actions. The FOIA Coordinator will ensure all supporting documentation is uploaded in FOIAOnline (e.g., records of conversations or notes to the record). The record copy of the FOIA response will be maintained in FOIAOnline if all responsive records are entered into FOIAOnline. If any portion of the response is not entered into FOIAOnline, the FOIA Office must maintain a copy of all responsive records located and provide in response to the request according to applicable records schedules. The Information Access Section will close the request in FOIAOnline.

9. ADDITIONAL INFORMATION

This document is not intended to create any rights or privileges for the public, or obligations on the part of EPA.

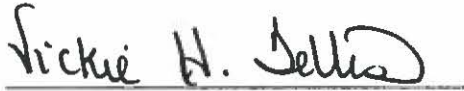
10. CONCUR AND APPROVAL



Lou Ann Gross

Chief, Information Access Section

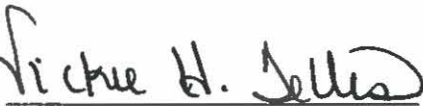
3/31/2015
Date



Vickie H. Tellis

Chief, Information Access, Integration and
Systems Branch

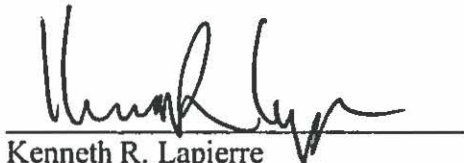
3/31/2015
Date



Vickie H. Tellis

Deputy Assistant Regional Administrator
Office of Policy and Management

3/31/2015
Date

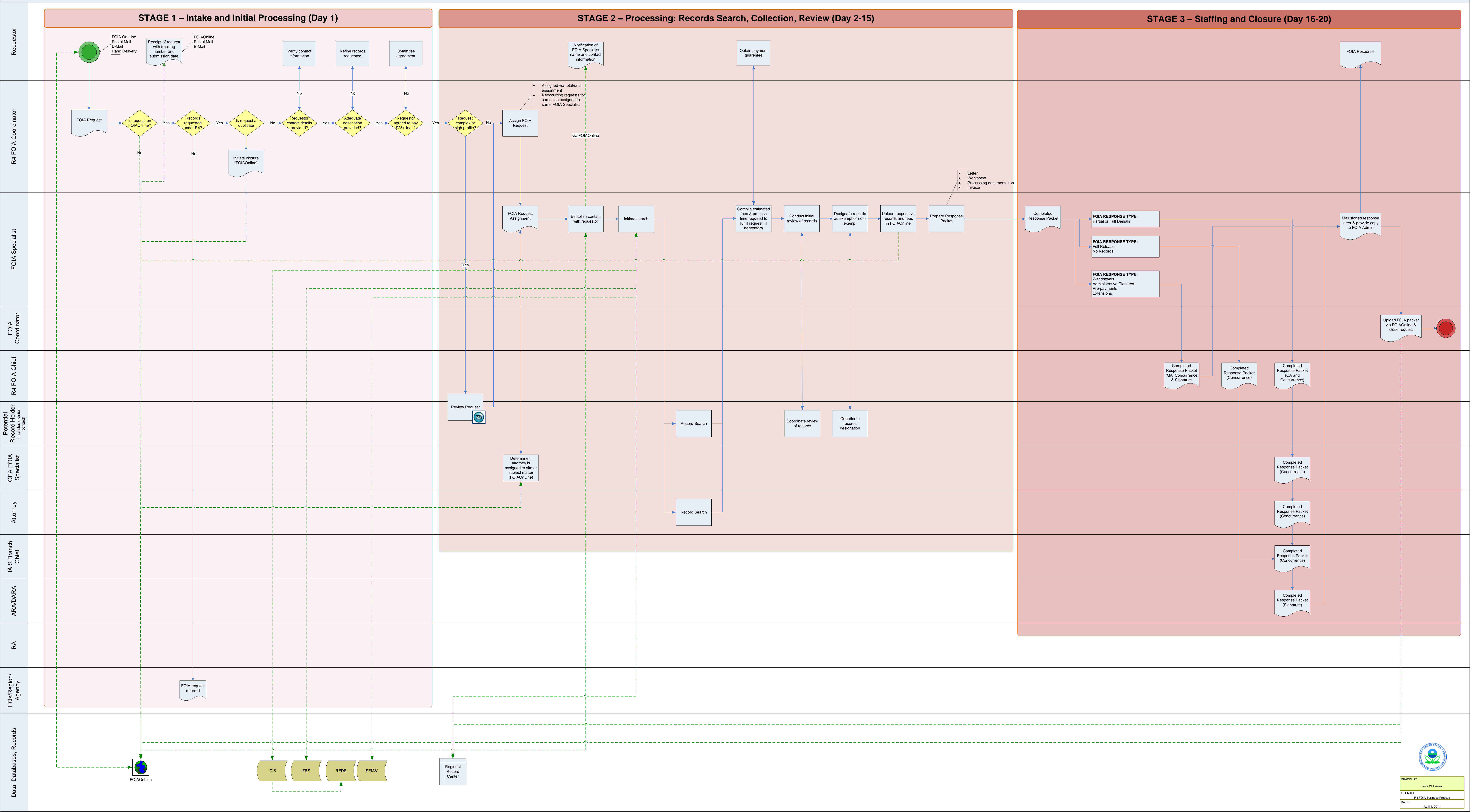


Kenneth R. Lapierre

Assistant Regional Administrator

3/31/2015
Date

R4 FOIA Business Process



*SEMS record search includes: CERCLIS Office of Brownfields and Land Revitalization, Brownfields Properties AIRS/AFS AIRS Facility Subsystem BR Biennial Reporters BRAC Base Realignment and Closure CAMDBS Clean Air Markets Division Business System CERCLIS Superfund System CWS Clean Watersheds Needs Survey E-GRIT Electronic Greenhouse Gas Reporting Tool EGRID Emissions & Generation Resource Database EIA-860 Energy Information Administration-860 Database ES Emission Inventory System FTIS/NCDB National Compliance Data Base ICIS Integrated Compliance Information System LUST-ARBA Leaking Underground Storage Tank - American Recovery and Reinvestment Act NPDES National Pollutant Discharge Elimination System OIL OIL Database OTAQREG Office of Transportation and Air Quality Fuels Registration RBLC RACT/BACT/LAER Clearinghouse RCRAInfo Resource Conservation and Recovery Act Info. RFS Renewable Fuel Standard SDWIS Safe Drinking Water Information System SSTS Section Seven Tracking System STATE State Environmental Programs TRI Toxics Release Inventory TSCA Toxics Substances Control Act